

particularly where meaningful geographic boundaries can still be drawn and a moderate rate of growth in the demand for telephone numbers will avoid the necessity for another round of relief for a reasonable period of time. It believes, though, that all-service overlays represent a superior form of relief for many of America's rapidly growing metropolitan areas. In Los Angeles and Chicago we are seeing the effects of what has been referred to as the "shrinking area code syndrome". That refers to the fact that in these and other parts of the country the demand for telephone service is compelling number relief with increasing frequency. Among the consequences are increasingly meaningless split boundaries, greater frequency with which new boundaries divide communities of interest, greater resulting controversy in determining split boundaries, greater frequency with which subscribers are subjected to the inconvenience and cost of number changes, and greater frequency with which local calls require 10- or 11-digit dialing.

Splits have primarily been valued -- despite the admitted inconvenience and significant costs and burdens associated with number changes -- because they ordinarily preserve a unique geographic identity for "area" codes and 7-digit local dialing. As area codes shrink, however, the value of geographic identity becomes questionable and the percentage of local 10- and 11-digit

Southern New England Telephone Company to Investigate
Alternative Methods for Providing Area Code 203 Relief,
Conn. Dept. of Public Utility Control Docket No. 94-11-21
(March 28, 1995).

dialing increases. At some point the difficulty of determining whether a local call requires 7- or 10/11-digit dialing outweighs these traditional split advantages and simply creates a high degree of caller confusion.

PageNet believes that overlays are a sensible answer to this syndrome. By simply adding one or more additional area codes within an existing area code, the geographic significance of that calling area can be preserved. More importantly, further number changes are avoided. Caller confusion, moreover, can be eliminated by means of a uniform 10- or 11-digit dialing plan.²³

Even in those parts of the country where the shrinking area code syndrome is occurring, PageNet believes splits are acceptable in the first instance only if they can be timely implemented. At present, that is simply not happening. There is thus a clear need for a fail safe mechanism to assure a constant supply of numbers along the lines of PageNet's suggested triggers

²³ Efforts to preserve 7-digit dialing may in time become futile. In addition to the confusion created by the preservation of 7-digit dialing in metropolitan areas where the shrinking area code syndrome is at work at some future point, number portability may well render the entire concept of "area" codes meaningless. PageNet doubts that number portability will be limited to service provider portability, because the likely means of providing such portability will also make location portability feasible. Once location number portability is feasible, it is entirely possible that it will be offered to the public and numbers will be ported from one area code to another. This simply is another likely phase in the growth of telephony which has seen 7-digit dialing replace 4-digit dialing and shortly will see 10/11-digit dialing replace 7-digit dialing.

with an overlay default to make sure that numbers are always available.

**E. The Proper Scope of State Jurisdiction and
The Standards To Be Applied**

PageNet believes that state commissions should play a precisely defined role in number administration. State commissions, for example, are better equipped than this Commission to define appropriate boundaries for splits. PageNet also believes, though, that unless this Commission more clearly defines the scope of that role and the standards to be applied state review will continue to frustrate and undermine the objectives that this Commission wisely declared to be the goal of number administration in its Ameritech Order. That will inhibit innovation and new entry within the telecommunications industry.

**1. Reaffirmation That Service Specific Overlays
Are Per Se Unlawful**

At a minimum, this Commission should reaffirm in clear and unambiguous language that service specific overlays are illegal per se. Otherwise state commissions will be tempted, as did the Texas PUC, to distinguish the Ameritech Order factually in an effort to justify the kind of discrimination that is inherent in service specific overlays.²⁴ It is clear, moreover, that service specific overlays are inherently anti-competitive and should be illegal per se. One of the most significant existing barriers to competition is the number change that currently is required to

²⁴ See 214/713 Order at 10-13

change service providers. Among the reasons for this is the expense and inconvenience involved in publicizing those changes. While the implementation of number portability will eliminate the technical need to change numbers, service specific overlays would perpetuate this barrier arbitrarily as a matter of regulatory fiat. Thus, as the competitive overlap between wireline and wireless services continues to expand, the ability of wireless carriers to compete for wireline customers would be impeded by the required segregation of wireless service on a different area code and the number change that segregation would require in order to switch from a wireline to a wireless service. Reinforcing that barrier would be the likely dialing differentials that would disproportionately affect wireless service in light of the existing dominance of wireline service. Thus a disproportionate percentage of wireless local calls would likely require 10- rather than 7-digit dialing as result of that dominance. Service specific overlays would consequently tend to perpetuate the dominance of wireline service.

2. Split Standards

The Commission should also dispel the notion that is implicit in the Texas 214/713 decision, that new technologies should be handicapped to eliminate inherent natural competitive advantages that they enjoy over traditional wireline service.²⁵ Thus the Texas PUC threatened wireless carriers with a

²⁵ See 214/713 Order at 10-13.

"rebalancing" of the burdens involved in its relief plans for Dallas and Houston in the form of a "pro-rata mandatory take-back of wireless telephone numbers" if those carriers successfully challenged the Texas PUC's wireless overlays for those cities.²⁶ Such a rebalancing would presumably be required to offset the number take-backs required for wireline service in the splits also ordered by the Texas commission. That, though, completely ignores the fact that splits as a technical matter require a mandatory take-back of numbers only for wireline service, which is a function of the fact that wireline service is provided in fixed geographic areas out of wire centers. Wireless service, however, is mobile and is not tied to any fixed location. It also ignores the fact that no purpose is served by a mandatory take-back of Type II wireless numbers (by tandem interconnection). As the Commission recognized in its Ameritech Order, though, the goal of number administration is "to facilitate entry into the communications marketplace".²⁷

Thus, the fact that a split requires a change of the area code for typically half of all wireline subscribers should not mean that mandatory number changes should arbitrarily also be required for Type II wireless subscribers, who unlike wireline subscribers, are not restricted to the boundaries of a wire center.

²⁶ 214/713 Order at 13.

²⁷ Ameritech Order at ¶18.

That freedom and the ability to offer a choice of area code assignments is one of the advantages that wireless service has over wireline service as a natural consequence of its mobility. A split will thus affect individual wireless customer preferences and requirements in different ways. Some will want to change their wireless number to correspond to a change in their home wireline number, others will want to change their wireless number to correspond to a change in their work number, while still others will want to retain their existing wireless number. There is no reason why, given the fact that they are not restricted by wire center boundaries, Type II wireless customers should not have the freedom to make these choices.

A regulatory interference with that freedom by requiring a mandatory take back of Type II wireless numbers is unlikely to result in a greater degree of number relief or a more efficient utilization of numbering resources. Wireless NXX code "fill factors" typically exceed 90%, which reflects the tremendous demand for wireless service and the ability of wireless carriers to use numbering resources efficiently, which again, is a function of the fact that they are not restricted by wire center boundaries. Numbers voluntarily returned by wireless customers in a split will therefore be reassigned. They will thus reduce the demand for NXX code assignments and contribute to overall number relief. PageNet agrees with the Illinois Commerce Commission which ordered splits for relief of both the 708 and

312 area codes without a mandatory take back of Type II wireless numbers.²⁸ It observed that "whenever possible, telecommunications policies should be designed to accommodate the choices consumers make, and not make choices for consumers."²⁹ That is precisely what the Commission would accomplish by prohibiting a mandatory take back of Type II wireless numbers in the event of a split.³⁰

The Commission should also require that wireless subscribers who voluntarily request a number change in a split have the same right as a wireline subscriber to limit that change to an area code change. That means, if requested, that a wireless carrier should be entitled to an assignment of NXX codes from the new area code that match the carrier's existing NXX codes. Again, this will not waste numbering resources given the demand for

²⁸ See Illinois 708 Order at 26; Illinois Bell Telephone Company Petition for Approval of Stipulation and Agreement of the Parties for 312 Relief Plan, Docket No. 95-0371, Order at 22 (issued November 22, 1995) (Illinois 312 Order).

²⁹ Id. at 21.

³⁰ Concern is unfounded. Customer requests for number changes are likely to impose on wireless carriers a burden that is still greater than that imposed on wireline carriers. Whether a number change is mandated or requested by a customer, cellular phones uniquely must still be reprogrammed to effect such a change. The expense of doing so is substantially greater than the expense of wireline number changes which require only the reprogramming of wire center switches. Cellular carriers consequently are still likely to incur greater burdens in connection with a split than wireline rivals even though wireless customers are given the freedom to choose which area code they want.

wireless service and will simply accord wireless carriers and their customers parity with their wireline counterparts.³¹

3. Overlay Standards

There is also a need to assure that overlay relief will be competitively neutral. To this end the Commission should consider requiring that overlays be used by all services and that they be implemented with a uniform 10- or 11-digit local dialing plan. Without uniform 10- or 11-digit dialing, the LEC will have a distinct competitive advantage over new entrants who often will be forced to compete primarily with the new and less familiar telephone numbers. The source of that disadvantage is the relative utilization of the old and new numbers and the LEC's greater access to the former. Depending on the rate of growth in the local demand for new telephone lines, the likelihood is that the relative utilization of the new code will be significantly less than the old code for some time. This means that telephone subscribers who are assigned telephone numbers from the new area code will place the majority of their local calls to line numbers within the old area code at least until the new area code reaches a level of utilization that is comparable. That in turns means that the frequency with which they will be required to dial 10 or 11 digits when placing a local call is likely to be far greater than those who have old numbers. This differential is likely to

³¹ This fact was recognized by the Illinois Commerce Commission in both the 708 and 312 relief proceedings. See Illinois 708 Order at 27-28; 312 Order at 22-23.

be competitively significant as it will make it more difficult for new entrants that have little or no access to old numbers to take customers from the existing carriers, including most particularly the dominant LEC. It will also make it more difficult for them to compete for new customers as well, as LEC unitization rates tend to be relatively low giving them a supply of old numbers with which to compete for new business. Thus the differential in dialing requirements between subscribers with old and new numbers will tend to insulate the dominant LEC from the effects of new entry and increased competition. Uniform 10- or 11-digit dialing will eliminate that differential and enhance the effects of competition.

A more significant problem exists where a change in service providers requires a change in ones telephone number. As discussed above, that requirement limits competition because telephone subscribers tend to resist number changes.

A potential solution to the number change question is number portability for wireline services. That, though, is a very complex matter that requires the consideration of matters that go far beyond those raised by the need for number relief. Unresolved is the best technical solution for number portability, the nature and scope of portability, the costs of portability, how those costs should be shared, and whether in light of those costs portability promotes consumer welfare. It is possible, for example, that the costs of portability will increase overall network costs to a degree that is likely to exceed any likely increased consumer benefits as a result of such portability.

Consequently, PageNet does not believe that there is an adequate nexus between number portability and number relief to make portability a decisional factor in number relief proceedings.³²

4. Implementation Standards

The Commission should emphasize that the general requirements of even handedness and technology neutrality apply with equal force to the period during which relief plans are being implemented. As demonstrated above, there has been a strong tendency to resolve implementation problems by discriminating against wireless service. Wireline carriers have thus been given preferential access to the NXX codes that remain in the old area code, wireless carriers have been subjected to number take backs to facilitate permissive dialing for wireline service, and wireless service has been subjected to discriminatory dialing treatment during the period of permissive dialing. Number shortages, moreover, as previously noted, presently have a much greater impact on wireless service than they do on wireline.

Tolerance of this kind of discrimination will effectively undercut the objectives of the Ameritech Order. In rapidly growing metropolitan areas, such as Los Angeles and Chicago, the frequency with which number relief is required is approaching

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As previously indicated (see n. 23, supra), it is entirely possible that number portability will rendered the whole concept of "area" codes meaningless. There will simply be a pool of 10-digit or larger numbers for use in routing telephone calls on the public switched telephone network.

every three years. With split implementation requiring up to 18 months, a tolerance of discrimination in implementation plans will largely render the prohibition against such discrimination largely meaningless.

5. Rationing Standards

PageNet strenuously opposes the rationing of codes. There is simply no need for rationing. New numbers can be readily made available at any time that NXX codes are in short supply by simply opening up a new NPA as an overlay. As noted before, this need not interfere with a later implementation of a split provided that care is taken in the assignment of NXX codes to avoid duplication of existing NXX code assignments in the areas that would be assigned the new NPA.

6. Additional State Functions

In addition to determining the appropriate form of relief subject to the standards set-forth above, PageNet believes that states can and should have jurisdiction, subject to and consistent with industry assignment and relief guidelines, to

define area code boundaries, to monitor NXX code utilization, and to require the initiation of the relief planning process.

Respectfully submitted,

PAGING NETWORK, INC.

Judith St. Ledger-Roty
Judith St. Ledger-Roty
REED SMITH SHAW & MCCLAY
1301 K Street, N.W.
Suite 1100 East Tower
Washington, DC 20005
Telephone: (202) 414-9200

Lee A. Rau
Lee A. Rau
REED SMITH SHAW & MCCLAY
8251 Greensboro Drive
Suite 1100
McLean, Virginia 22102
Telephone: (703) 734-4600

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